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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 082,587	02 25 2002	Brent J. Bos	DON01 P-960	5708

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EXAMINER

CARIASO, ALAN B

ART UNIT PAPER NUMBER

2875

DATE MAILED: 02 12 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/082,587

Applicant(s)

BOS ET AL

Examiner

Alan Cariaso

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-218 is/are pending in the application.
- 4a) Of the above claim(s) 1-83 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 84-218 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 30 May 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 6) ☐ Other:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed May 30, 2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. No copies have been provided for several US Patents, foreign patents, and publications of sheets 1/13 to 5/13 of the IDS (form 1449). However, all listed US Patents have been considered, except the foreign documents and publications indicated by line-crosses through those references which could not be considered.

### ***Drawings***

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 30, 2002 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the light conduit, fiber optic element (cable or bundle) with diffusively reflective or specular reflective inner walls, the transmission selector indicator panel, switch cup holder, bin, ashtray must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4 Claim 119 is objected to because of the following informalities:

5 Claims 119, 123, 150, 154, 181, 185, 213 and 217, "said portion" may be  
confused with the "bottom portion of said mirror case" recited in preceding claims 84,  
124, 155 and 186. It is suggested to clarify the intended portion by inserting --of the  
vehicle interior below said mirror assembly--.

6 Claim 187, an ending period (.) is missing.

7 Appropriate correction is required.

### ***Double Patenting***

8 The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 186 and 193-218 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 39, 40, 46, 50-59, 73-77, 81-91, 116-126, 134 and 135 of U.S. Patent No. 6,412,973. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least applicant's claim 186 include limitations that reflect the collective limitations of patent claims 81 with 82 and 116 with 117 which similarly claim the interior rearview mirror assembly incorporating a light emitting diode positioned for emitting light generally downward from a bottom portion of the assembly, wherein the light emitting diode has a luminous intensity of at least 500 mcd when operated at a forward current of 20 mA. Applicant's claims 193-202 reflect the limitations of patent claims 83-91 and 118-126. Applicant's claim 203 include the limitation the solid-state light source operating at a current less than about 200 mA and is dependent to the at least 500 mcd luminous intensity and current of 20 mA which reflect the collective limitations of patent claims 39, 40 and 50 of the incorporated light emitting diode having at least 500 mcd luminous intensity operated at forward current of 20 mA and that the solid state light source also operates at a current less than 200 mA. Applicant's claims 204-218 further reflect the limitations of patent claims 51-59, 73-77 and 46.

10. Claims 84-218 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23, 25, 35-40, 46, 50-59, 73-77, 81-91, 99, 100, 116-126, 134 and 135 of U.S. Patent No. 6,412,973 in view of GALLMEYER (US 4,882,565). Although the conflicting claims are not identical, they

are not patentably distinct from each other because the outstanding limitation of at least "an opening" in applicant's claims not claimed in the Patent '973 claims is considered to be obvious in view of GALLMEYER. Applicant's limitation "an opening" is recited in the phrase "wherein said mirror case includes an opening, said light emitting diode emitting light through said opening when powered" in at least claims 84 (in the alternative), 124, 155 and 187. It is commonly claimed among the applicant's claims and Patent claims that a solid-state light source or light emitting diode as being positioned for emitting light generally downward from the bottom portion of the mirror case. GALLMEYER teaches at least one light source (154-figs.8,10) positioned with respect to a mirror casing (16,24-fig.8) for emitting light generally downward from the bottom portion (20) of the mirror case (16) by means of an opening (23) through which light is emitted by the light source. Thus to provide the vehicle interior rearview mirror assembly including a mirror case with a solid-state light source emitting light from the bottom portion of the mirror casing of Patent '973 claims by means of an opening on the mirror casing as taught by GALLMEYER is considered to be obvious to one of ordinary skill in the art at the time the invention was made. Furthermore, to provide the bottom opening of the mirror casing with a refractive lens closing the opening by snap-fit is also taught by GALLMEYER. Therefore, applicant's claims 84-89, 124-129, 155-160, 187-192 are not considered to be patentably distinct from Patent '973 claims 1, 9, 22, 23, 25, 81, 82, 99, 100, 134, 135, 116, 117 in view of GALLMEYER. Applicant's depending claims 99-123, 130-154, 161-170, 171-185, and 193-218 reflect Patent claims 2-21, 35-38, 83-91, 118-126, 50-59, 73-77 and 46.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (703) 308-1952. The examiner can normally be reached on M-F (9:00-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

A handwritten signature in black ink, appearing to read 'Alan Cariaso', with a large loop at the start and a horizontal line extending to the right.

Alan Cariaso  
Primary Examiner  
Art Unit 2875

AC  
February 10, 2003